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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,082	10/27/2003	Wilmer L. Sibbitt JR.	UNME-0142-1	8459
40271	7590	01/18/2006	EXAMINER	
THE LAW OFFICE OF THOMAS M. ISAACSON 850 LINDY LANE HUNTINGTOWN, MD 20639			RODRIGUEZ, CRIS LOIREN	
		ART UNIT	PAPER NUMBER	
		3763		
DATE MAILED: 01/18/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

TWNK

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/693,082	SIBBITT, WILMER L.	
	Examiner	Art Unit	
	Cris L. Rodriguez	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 16 November 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 1-34,39-48 and 51-60 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 35-38,49 and 50 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

<ol style="list-style-type: none"> <li>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)            Paper No(s)/Mail Date <u>5/13/04, 11/18/05</u>.</li> </ol>	<ol style="list-style-type: none"> <li>4)<input type="checkbox"/> Interview Summary (PTO-413)            Paper No(s)/Mail Date. _____.</li> <li>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6)<input type="checkbox"/> Other: _____.</li> </ol>
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**DETAILED ACTION**

1. Applicant's election with traverse of figures 11A-11B, claims 35-38, and 49-50 in the reply filed on November 16, 2005 is acknowledged. The traversal is on the ground(s) that the claims directed to the alleged species do not recite mutually exclusive characteristics of the alleged species, and that some adhesive devices and locking mechanisms can be used with any of the exemplary arrangements shown in figures and specifically with figures 2A-5I. This is not found persuasive because the reason for insisting upon election of one species, are the facts relied upon for the conclusion that there are claims restricted respectively to two or more patentably different species that are disclosed in the application. The breath of a single disclosed species does not necessitate the examination of the other disclosed species and their concomitant features. The examination of other species would include a determination of the patentability of the species additional features in combination with the subcombination common to all species, which determination amounts to an examination of multiple inventions. Furthermore, applicant's disclosure does not specify that figures 2A-5I are going to be used with all the needles shown, as well as the adhesive. It also set forth on page 11 that figures 7 and on are "traditional" needles.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-34, 39-48, and 51-60 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 16, 2005.

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3. Please note that claims 27-34, 39-48, 51-60 have been withdrawn from consideration by the examiner as being drawn to a non-elected species, and/or not shown in the elected species.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the locking means set forth in claim 35 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

5. The disclosure is objected to because of the following informalities: in paragraph [82], it is not clear how the device shown in figures 11A-11B works. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 37, 38, 49, and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 37, 38, 49, and 50 are indefinite because it is not clear what shape specifically encompass the words “butterfly” and “moth” since there are hundreds of species of butterflies and moths.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 35-38, and 49-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Firth et al (US 5,501,672).

Firth discloses a butterfly needle assembly (figs. 25-27) having a needle 70 with a needle hub 112, a locking means 114, a shield 110, and a thumbrest at the upper rear surface of the shield.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cris L. Rodriguez whose telephone number is 571-272-4964. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 13, 2006



Cris L. Rodriguez  
Primary Examiner  
Art Unit 3763